

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GEOTAG, INC., *et al.*,

v.

EYE CARE CENTERS OF AMERICA INC.; *et al.*,

2:11-cv-00404-MHS

GEOTAG, INC.,

v.

CIRCLE K STORE, INC.; *et al.*

2:11-cv-00405-MHS

DEFENDANTS' MOTION TO STAY

For the reasons set forth in Defendants Coldwater Creek Inc., Draper's & Damon's, LLC, and J. Crew Group, Inc.'s Motion to Dismiss for Misjoinder (Case No. 2:11-cv-405, Dkt. No. 33) and certain Defendants Notice of Joinder in that Motion to Dismiss (Case No. 2:11-cv-404, Dkt. No. 110 and Case No. 2:11-cv-405, Dkt. No. 120),¹ the Defendants improperly added to the above-captioned actions in Plaintiff's Amended Complaints respectfully request that they be dismissed from these actions leaving GeoTag free to pursue its original claims against Eye Care Centers of America Inc. and Circle K Store, Inc.

In the event that the improperly added Defendants are not dismissed, the undersigned Defendants respectfully request that the Court stay the above-captioned actions in favor of Microsoft and Google declaratory judgment action in Delaware. Because this Stay request has been extensively briefed in related actions, the undersigned Defendants fully incorporate the prior briefing and exhibits by reference. The prior briefing in the related actions is attached

¹ See also Case No. 2:11-cv-405, Dkt. Nos. 190, 246, 263, 287, and 300.

hereto as Exhibits A through E.² For the reasons previously set forth in the attached briefing, the undersigned Defendants respectfully request that the Court stay the above-captioned actions in favor of the Microsoft and Google declaratory judgment action in Delaware.

Dated: June 1, 2012

Respectfully submitted,

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² Due to CM/ECF file size limitations, only the prior briefing is attached hereto. The prior exhibits may be found attached to the briefing in the related actions. *See, e.g., GeoTag, Inc. v. Aromatique*, Case No. 2:10-cv-570 at Dkt. No. 269 (Exhibits A-F), Dkt. No. 289 (Exhibits A-D), Dkt. No. 363 (A-I), and Dkt. No. 404 (Exhibits A-B).

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on June 1, 2012, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Michael A. Bittner

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel has complied with the meet and confer requirement of Local Rule CV-7(h) and that the motion is opposed. Counsel for both parties discussed the issues presented here by teleconference. No agreement could be reached. Discussions have conclusively ended in an impasse, leaving an open issue for the Court to resolve.

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